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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

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JAMES L. McPHADEN,

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Plaintiff,

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v.

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UNITED STATES OF AMERICA,

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Defendant.

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NO. CR95-5828JET

ORDER

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THIS MATTER comes on before the above-entitled Court upon Defendant's Motion For
Correction or Amendment of Record, and Rule 35 Motion for Correction or Reduction of Sentence.

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Having considered the entirety of the records and file herein, the Court finds and rules as
follows:

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1 Defendant's Motion For Correction or Amendment of Record is properly characterized as a
2 motion under 28 U.S.C. §2255. Defendant's Rule 35 motion is also properly characterized
3 as a motion under 28 U.S.C. §2255. Both of Defendant's motions challenge the legality of his
4 sentence. Defendant previously challenged the same sentence in a 2255 motion, which was
5 adjudicated on the merits. Defendant's motions constitute second or successive motions. Defendant
6 has not been granted authority from the Ninth Circuit to file a second or successive motion to vacate
7 his sentence. Accordingly, Defendant's motions are DISMISSED.

8 || IT IS SO ORDERED.

9 The clerk of the court is instructed to send uncertified copies of this Order to all counsel of
10 record.

DATED this 7th day of July, 2005.

13 ||| /s JACK E. TANNER

JACK E. TANNER
SR. UNITED STATES DISTRICT JUDGE